

Amdt. Dated August 16, 2004
Reply to Office Action of May 14, 2004

Patent Application No. 09/915,865
Attorney Docket No. 81841.0155 (2009-174)

REMARKS/ARGUMENTS:

Claims 7, 10-12, and 14 are amended. Support for the amendment to claim 7 can be found at page 14, lines 3-11 and page 26, line 22-page 27, line 25 of the Applicant's specification. Claims 1-26 are pending in the application. Reexamination and reconsideration of the application, as amended, are respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. § 112:

Claims 7-14 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner states that there is insufficient antecedent basis for the limitation "control apparatus" in claim 7. In response, the Applicant changed "control apparatus" to --apparatus for mechanical control-- for which there is antecedent basis. Withdrawal of this rejection is thus respectfully requested.

The Examiner states that there is insufficient antecedent basis for the limitation "test" in claim 10. In response, the Applicant changed "test" to --assay-- for which there is antecedent basis. Withdrawal of this rejection is thus respectfully requested.

The Examiner states that there is insufficient antecedent basis for the limitation "test run" in claim 11. In response, the Applicant changed "test run" to --assay-- for which there is antecedent basis. Withdrawal of this rejection is thus respectfully requested.

The Examiner states that there is insufficient antecedent basis for the limitation "subsystem base class" in claim 12. In response, the Applicant changed "the subsystem base class" to --a subsystem base class--. Withdrawal of this rejection is thus respectfully requested.

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The Examiner states that there is insufficient antecedent basis for the limitation "units" in claim 14. In response, the Applicant changed "units" to -- subsystems-- for which there is antecedent basis. Withdrawal of this rejection is thus respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102:

Claims 7-11, 13, and 14 stand rejected under 35 U.S.C. §102(b) as being anticipated by Babson et al. (U.S. Patent 5,316,726 A). The Applicant respectfully traverses this rejection.

Claim 7, as amended, is as follows:

An apparatus for mechanical control of an automated immunochemistry or chemistry instrument which has a multiplicity of subsystems for performing immunochemistry or chemistry assays, the apparatus for mechanical control comprising a mechanical control system having both object-orient features and real-time features for control of the operations of the multiplicity of subsystems; wherein the subsystems operate on, transform, or transfer passengers; wherein a passenger template base class provides facilities for passenger creation, destruction, enumeration and state recovery.

Applicant respectfully submits that Babson cannot anticipate claim 7, because Babson fails to teach a passenger template base class that provides facilities for passenger creation, destruction, enumeration and state recovery.

Babson cannot make claim 7 obvious. Babson has no teaching or suggestion of a passenger base class of any kind, much less a passenger base class that allows for passenger creation, destruction, enumeration and state recovery. It is the discovery of the present invention that the object-oriented mechanical control method and system of the present invention "know" the respective types of the passengers, the respective locations of the passengers with the automated

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immunochemistry instrument and its subsystems, and the respective states of the passengers. (Applicant's specification, at page 27, lines 6-9). The passenger template base class allows for the polymorphic nature of the passengers. For an automated immunochemistry instrument, such passengers may include; empty vessels, sample vessels, reacting vessels, dilution vessels, reagent packs, samples, and sample tube racks. (Applicant's specification, at page 26, line 22-page 27, line 5). For example, the present invention allows for empty vessels to be transformed into sample vessels when a patient sample is added to them. (Applicant's specification, at page 27, lines 10-12). Thus, the present invention offers the advantage that a passenger template base class allows the types and states of the passengers to be known.

In light of the foregoing, Applicant respectfully submits that Babson could not have anticipated or rendered obvious claim 7, because Babson fails to teach or suggest each and every claim limitation. Claims 8-11, 13, and 14 depend from claim 7 and cannot be anticipated or rendered obvious for at least the same reasons as claim 7. Withdrawal of these rejections is thus respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103:

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Babson in view of Kristoff et al. (U.S. Patent No. 6,128,542 A). Applicant respectfully traverses this rejection.

Claim 12 depends from claim 7, and as such include all the limitations of claim 7, and therefore, cannot be rendered obvious over Babson for the same reasons discussed above. Kristoff cannot remedy the defect of Babson and is not relied upon by the Examiner for such. Instead, the Examiner cites Kristoff for teaching the use of information hiding or encapsulation in a computer algorithm, which utilizes object-oriented database programming techniques, for controlling factory machinery.

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In light of the foregoing, Applicant respectfully submits that the cited references could not have made claim 12 obvious, because the combination of references fails to teach or suggest each and every claim limitation. Withdrawal of this rejection is thus respectfully requested.

The art made of record but not relied upon by the Examiner has been considered. However, it is submitted that this art neither describes nor suggests the presently claimed invention.


In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Los Angeles, California telephone number (213) 337-6700 to discuss the steps necessary for placing the application in condition for allowance.

If there are any fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-1314.

Respectfully submitted,
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